## REMARKS

Claims 31, 36, 37, 43, and 44 have been amended. No claims have been canceled or added. Hence, claims 31 – 44 are pending examination.

Claims 31 – 44 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 31 – 44 are rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,668,295, herein Chan.

### Examiner Interview Results

Applicant's representative conducted an Examiner's Interview with the Examiner on Monday, September 11, 2006. Applicant's goal for the interview was a discussion of a proposed amendment to claim 31 and analysis of the claim under 35 USC 112 and 35 USC 102.

Instead, the interview focused on a rational for rejection that is not part of the record. The Examiner stated that the claims submitted by Applicant are not what the invention is, and that the Examiner had previously called the Applicant to tell the Applicant what the invention should be, based on the Examiner's own review of the specification.

Applicant pointed out that this rationale for rejection is not on the record, to which the Examiner stated that the rational did not have to be, but simply could be communicated via an interview, as before. Applicant emphasized the need to have all bases of rejections on the record, in an Office Action. The Examiner then restated that she believed the rationale was in an Office Action, and further, that the Examiner would state the rational in the Interview Summary the Examiner would provide.

Applicant suggested that perhaps the Examiner believed the claims were not commensurate in scope with the specification. The Examiner agreed, alleging that there is no support for method of claim 31 being used for resources other than data blocks undergoing block split operations. Applicant pointed out the claims represent an invention in more general terms while the specification provides specific example embodiments. Further, the specification discloses that the techniques described therein may be used in contexts outside data block split operations. Finally, Applicant stated the Examiner should cite a legal basis for supporting the Examiner's rational for rejecting the claims. The interview concluded with Applicant requesting that any ground for rejection be communicated in an Office Action rather than in off-the-record in interviews.

**Rejections Under 35 USC 112**

One alleged defect of claims 31 and 38 that allegedly causes the present rejection is that "the claims extensively use the phrase "wherein", but the specification fails to provide actual steps to perform or limit these claims to a particular structure, thus, this term renders the claimed scope to be indistinct." It is unclear to applicant how the wherein clauses cause indefiniteness, indistinctness, or a lack of structure. Nevertheless, Applicant has rewritten claim 31 so that wherein clauses are not used.

Another alleged defect is that Applicant fails to define the metes and bounds of the "a first resource" and "a second resource". Presumably, the Examiner is concerned that the Applicant has not defined metes and bounds of the term resource. It is incorrect to allege that there are no metes and bounds defined for the term resource. The meaning in the art of the term provides metes and bounds. In this case, the term is well known in the art, and is commonly used to label resources on computer systems that can be the subject of a lock. For example, the cited art, i.e. Chan, uses the term resource in this way.

Another defect under 35 USC 112, second paragraph, alleged by the Office Action regards requiring "a second resource different than said first resource". As explained above the term resource is well defined. The word "different" is also well known. The Examiner should construe these terms in the art recognized way, and not reject the terms as indefinite under 35 USC 112, second paragraph.

Perhaps the Examiner considers the term resource to be overly broad or to have scope not commensurate with the specification. If this is the case, such an alleged deficiency is not a proper basis for indefiniteness under 35 USC 112, second paragraph. Further, 35 USC 112, second paragraph should not be used as a pretext for rejecting a claim under a rational not served by 35 USC 112, second paragraph.

### Rejections Based on Prior Art

In reviewing the prior art, Applicant has found the teaching of some elements of the claims as egregiously lacking. To expedite constructive prosecution of the application, it is requested that the Examiner identify ALL elements in the cited art that are being equated to elements in the claims.

### Claims 31 and 38

The cited art clearly fails to describe the claimed feature of determining that a blocking condition is no longer in effect for a resource, which includes, requesting a lock on another resource and receiving a response that grants the request for the lock on the other resource. The lack of such as teaching is egregious.

The Office Action, however, cites various passages (i.e. col. 3, lines 47 – 57, lines 60 – 67, col. 4, lies 1 – 18) of Chan as disclosing these steps. None of these passages disclose or suggest in any way determining that a blocking condition is in effect using the particular steps claimed.

In these passages, Chan describes a requesting process requesting to convert a shared lock on a resource. The request is not granted because an exclusive lock has been granted for this resource. The grant of the exclusive lock, or the reasons underlying its acquisition, can be analogized to a blocking condition. When the blocking condition is no longer in effect, i.e., the exclusive lock is relinquished, the request for the shared lock is granted, and a message is sent to the requesting process to inform it that the shared lock requested is granted.

Assuming these steps may be equated to a way for determining when a blocking condition for a resource is in effect, at best, the passages teach that such a determination for the resource is made by requesting a lock on the same resource and being informed by a message of when the lock has been granted on the same resource. Claims 31 and 38, on the other hand, teach that such a determination is made by making a request for a lock on a different resource, not the same resource, and by receiving a response that grants the request for the lock on the other resource.

Based on the foregoing, claims 31 and 38 are patentable over the cited art under 35 USC 102. Reconsideration and allowance of claims 31 and 38 are respectfully requested.

**Claims 32 and 39**

Claims 32 and 39 recite that the "second resource is a transaction and said first resource is a resource locked for said transaction." The term or notion of transactions is clearly absent from Chan. Apparently, the Examiner has resorted to equating a transaction to a process, such as PROC_1, PROC_2, and PROC_3. However, those skilled in the art would not equate a transaction to a process and would find such a correlation as extraordinary and erroneous.

Based on the foregoing, claims 32 and 39 are patentable. Reconsideration and allowance of claims 32 and 39 are respectively requested.

**Claims 34 and 41**

Claims 34 and 41 recite that said first resource is a data block, and said blocking condition is based on said data block undergoing a block-split operation. The term or notion of a data block undergoing a block-split is clearly absent from Chan.

The Examiner cites steps in FIG. 5B as disclosing a data block undergoing a block-split operation. These steps describe how a convert queue for a resource is scanned to grant locks not at the head of the convert queue. There is no discussion or suggestion about splitting data blocks.

Based on the foregoing, claims 34 and 41 are patentable. Reconsideration and allowance of claims 34 and 41 is respectfully requested.

**Claims 35 and 42**

Claims 35 and 42 recite that said data block is marked to indicate that the data block is undergoing said block split operation. As already mentioned, the term or notion of a data block split operation is not disclosed or suggested in any way by Chan. Therefore, a data block marked to indicate such an operation is a notion not in any way disclosed or suggested by the cited art.

Applicant surmises that an Examiner's key word search showed that the word "mark" appears in the passages the Examiner cites as teaching these claimed features. However, even a cursory review of these passages would uncover the fact what is being marked are locks that have been granted, not data blocks that are undergoing block split operations. The locks are being marked to indicate that messages are to be sent to the owners of the locks. (see, for example, description for steps 520 and 521)

**Claims 36, 37, 43, and 44**

The Examiner cites large passages of Chan in a non-specific way as teaching the features of these claims. As best Applicant is able to determine, these passages do not teach all the features of these claims. Clearly if the passages did, the Examiner could name which elements in Chan have been equated to features of the claims. Because the Examiner has not, the Examiner in effect admits these passages do not teach all the features of claims 36, 37, 43, and 44.
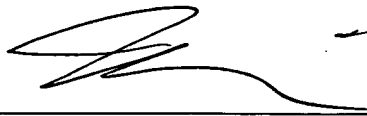
**Conclusion**

For the reasons set forth above, Applicant respectfully submits that all pending claims are patentable over the art of record, including the art cited but not applied. Accordingly, allowance of all claims is hereby respectfully solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Respectfully submitted,

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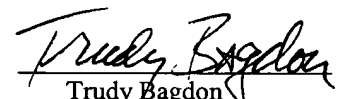
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